



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 6, 2005

Mr. Brett Bray  
Division Director, Motor Vehicle Division  
Texas Department of Transportation  
P. O. Box 2293  
Austin, Texas 78768

OR2005-02930

Dear Mr. Bray:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 221524.

The Texas Department of Transportation (the "department") received a request for information regarding a specific property lease. You claim that the submitted information may be excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931

Prior decisions of this office have determined that personal financial information not related to a transaction between an individual and a governmental body is generally not subject to a legitimate public interest and is therefore protected by common-law privacy. *See* Open Records Decision No. 600 (1992); *cf.* Open Records Decision Nos. 545 (1990), 523 (1989) (essential facts about financial transaction between individual and governmental body generally subject to legitimate public interest and not protected by common-law privacy). Whether financial information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983).

In this case, the submitted information is the personal financial information of the requestor. Pursuant to section 552.023 of the Government Code, the requestor has a special right of access to information that is excepted from public disclosure under laws intended to protect the requestor's own privacy interest as the subject of the information. Thus, the department may not withhold the requestor's personal financial information under section 552.101 in conjunction with common-law privacy grounds.<sup>1</sup> See Gov't Code § 552.023; see also Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual asks governmental body to provide him with information concerning himself). Therefore, the department must release the submitted lease to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

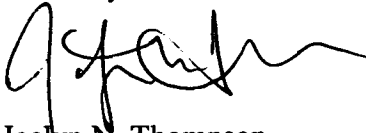
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<sup>1</sup>In the event the department receives another request for this information from someone other than this requestor or her authorized representative, the department must ask this office for a decision whether the information is subject to public disclosure.

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jaclyn N. Thompson', written over the printed name.

Jaclyn N. Thompson  
Assistant Attorney General  
Open Records Division

JNT/krl

Ref: ID# 221524

Enc. Submitted documents

c: Valarie Martinico  
6841 Gateridge  
Dallas, TX 75254  
(w/o enclosures)